

**REPORT - PLANNING COMMISSION MEETING**  
**June 12, 2003**  
**September 11, 2003**

**Project Name and Number:** Patel Residence Planned District Minor Amendment (PLN2003-00137)

**Applicant:** Maurice Camargo

**Proposal:** To consider a Planned District Minor Amendment to P-96-12 and a Preliminary Grading Plan to allow a new 8,794 square foot residence (including two garages totaling 1,531 square feet) within the Montclair II subdivision.

**Recommended Action:** Provide applicant and staff with further direction; or, Approve, subject to conditions.

**Location:** 45651 Montclair Terrace (Lot 5), Mission San Jose Planning Area

**Assessor Parcel Number(s):** 513-0265-033-00

**Area:** 1.9-acre lot; 9,374 square foot house (including two garages totaling 1,824 square feet)

**Owner:** Bhavesh Patel, Trustee

**Agent of Applicant:** Maurice Camargo, Camargo and Associates

**Consultant(s):** Vu Thai, Civil Engineering  
Michael Rosenberg, Landscape Architect

**Environmental Review:** This project is categorically exempt from CEQA review per Section 15303, New Construction or Conversion of Small Structures.

**Existing General Plan:** Low Density Residential (2 to 3.5 dwelling units per acre)

**Existing Zoning:** P-96-12(H) and P-96-12(H)(R)

**Existing Land Use:** Vacant

**Public Hearing Notice:** Public hearing notification is applicable. A total of 31 notices were mailed to owners and occupants of property within 300 feet of the site. The notices to owners and occupants were mailed on August 29, 2003. A Public Hearing Notice was delivered to The Argus on August 26, 2003, to be published by August 29, 2003.

**Background and Previous Actions:** On June 18, 1996, the City Council approved P-96-12 (Montclair II), to allow a 17-lot subdivision for single-family homes. Condition A-2 for the Planned District requires that all plans for new homes be reviewed and approved by the Planning Commission. Entitlements approved in conjunction with the Planned District consisted of Tract 6854, Preliminary Grading Plan GP-96-16 and Mitigated Negative Declaration EIA-96-82. On September 8, 1998, the City Council approved a Major Amendment (P-96-12I), which relocated wetlands and revised the previously approved grading plan, setbacks and development standards.

On June 12, 2003, the Planning Commission unanimously continued this project for redesign.

**Project Description:** The proposed house now totals 8,794 square feet (reduced 580 square feet from 9,374 square feet). This includes 1,531 square feet of total garage space within the attached two-car garage and detached four-car garage. The Architect has described the house as an "eclectic Mediterranean" style which is designed according to "Vastu" guidelines. The guidelines require that, among other things, the house be aligned within ten degrees of true north

with the entrance facing east, and that the house maintain a rectangular form of less than a 1:2 ratio. The applicant is requesting approval of a Planned District Minor Amendment and Preliminary Grading Plan.

#### **Project Analysis:**

- **General Plan Conformance:** The existing General Plan land use designation for the project site is Low Density Residential, 2 to 3.5 dwelling units per acre. The proposed single-family residential project is consistent with this General Plan land use designation.
- **Zoning Regulations:** The property is zoned Planned District (P-96-12(H) and P-96-12(H)(R)). The proposed residence conforms to the Planned District site standards including a 25-foot front yard setback, 15-foot side yard setbacks (17.5-foot setbacks on street sides) and a 35-foot rear yard setback. The proposed home also conforms to the 30-foot height limit. The (H) district designation indicates that the area has a unique historical character and identity to be preserved and enhanced by any new development, referencing in this case the property's proximity to the historic Mission San Jose. A portion of this lot also contains an (R), Development Reserve overlay designation. The purpose of the Development Reserve overlay is to promote and encourage the orderly development of the hill area and to meet the particular problems associated with these areas. Development in this particular area is not anticipated to be problematic as public facilities have been provided and serve the subdivision.

#### **Design Analysis:**

- **Architecture:** The architect describes the proposed house as an "eclectic Mediterranean architectural style". The design of the residence incorporates a symmetrical front façade with emphasized entry framed by Italianate columns, clay tile roofing, cast balustrade, etc., while also incorporating some contemporary detailing such as the proposed "eyebrow dormers". In overall massing, the house presents a one-story façade on the high side of the project site, with a two-story façade proposed on the downhill side, looking west. An attached garage is located perpendicular to the house, with an additional four-car detached garage across the driveway. The roof of the main structure is broken up into three main portions, corresponding to the center, or main, portion of the house, and left and right wings.

**June 12, 2003 Planning Commission Hearing:** Staff noted, and the Planning Commission agreed, that the proposed home is rather massive as viewed from downhill, which is made more noticeable due to its location on a prominent knoll in the Mission San Jose hills. While the floor of the house does step down with the slope, the roofline does not. Additionally, while the house steps vertically with the hillside, there is little horizontal differentiation. The Planning Commission and staff's original concerns raised in June 2003 are outlined below.

*The proposed residence is too large for the lot and fought the contours of the land and went across them rather than with them, inconsistent with the Hillside Policies.*

Staff response: In order to achieve a design which follows the Sthapatya Ved (Vastu) design guidelines by keeping the floor plan aligned within 10 degrees from true north and front entrance facing the east, the applicant has chosen not to revise the layout of the proposed residence. Although the horizontal profile of the residence has changed, the overall building layout remains relatively the same.

The applicant has changed the profile of the residence, particularly at the breezeway and terrace areas, and, based on information provided by the applicant, has reduced it approximately 580 square feet. The applicant indicates that on the main (or upper) floor, the attached garage is reduced 293 square feet; and, the game room, bedroom 3 and dining room have been reduced a total of 459 square feet.

Although the applicant indicates that the proposed detached garage has been reduced 462 square feet, from initially 954 square feet to 491 square feet, staff does not consider the change as a reduction in floor area. The detached garage still covers 954 square feet of the lot. Instead of a 4-car enclosed detached garage, the applicant now proposes a 2-car carport, 2-car enclosed garage combination.

As staff noted, the profile of the residence has changed, but the layout and the mass of the residence remains consistent with the previous submittal to the Planning Commission. Instead of pushing back the upper floor, thereby further reducing the bulk of the residence to follow the slope of the land, the residence's lower floor is pushed outward on its west elevation at the master bedroom and bedroom 4 to allow for horizontal differentiation and more usable terrace areas. In addition, the breezeway now is redesigned and incorporates a lower roof element.

*A different wainscoting material at the base of the residence should be proposed instead of faux stone, coursed plaster.*

Staff response: The applicant now proposes to apply a more appropriate cultured stone wainscoting around the lower floor and base of the residence (condition B-3). This should help to visually distinguish the first story from the second, and help give the appearance that the house does indeed step with the hill. The material would also help to provide more architectural interest, as it is now applied to the breezeway at the right elevation.

The Planning Commission is asked to evaluate the appropriateness of proposed changes and to provide the applicant and staff with further direction. Should the Planning Commission find that the changes are appropriate and wish to approve the project, any input received from the Commission can be included as conditions of approval.

- **Landscaping:** The majority of the project site outside of the building pad is on land sloped thirty percent or greater (constrained) and is identified for planting with native, water efficient trees, shrubs, grasses, and wildflowers. All existing trees onsite (a Pine cluster and a 54-inch diameter Eucalyptus) will be preserved (condition C-2). The residence will open on all three sides to multiple patios, decks, and planting beds, and the driveway incorporates special paving so that it can also serve as an extension of the patio system (condition C-7).
- **View Impacts:** The proposed house is located on the buildable area identified in P-96-12. The majority of the remainder of the site is constrained land with slopes of thirty percent or greater. The building is situated such that the one-story entrance, approximately twenty feet tall to the ridge of the roof (as viewed in elevation), faces uphill towards the existing residences to the east on Aguila Terrace. These properties to the east are at a slightly higher elevation than the project site, however, the views from those properties will be somewhat impacted by development on this lot (Lot 5) as they were by the recently approved and under construction Gupta Residence (PLN2001-00367) on the adjacent lot (Lot 6). This impact was anticipated during the creation of these lots in the Montclair II subdivision and building height limits established for the Planned District.

The site is currently proposed to be planted with various native and/or water efficient plants, of which staff is generally supportive. The applicant initially proposed four California Live Oak trees, to be located primarily at the north of the property. Placing such trees, which grow to between 20-70 feet tall, would have unnecessarily impacted the views of adjacent residences. Two of the four proposed California Live Oak trees have been relocated from the north area of the lot to the west area of the lot to preserve views of the neighbors located in the Aguila Terrace development to the upper east. The other two Oak trees are eliminated and are replaced with three Arbutus Marina trees at the north side of the lot, which grow about 20-25 feet. A condition is included to insure that trees grown on the north side of the lot are of a lower height selection (condition C-3).

**Circulation/Access Analysis:** Access to the project site is provided by Montclair Common, an existing private street and emergency vehicle access easement, with a twenty-foot wide right-of-way, that was built during construction of Tract 6854. Montclair Common intersects with Montclair Terrace providing access to the applicant's lot (Lot 5) and the neighboring lot to the south (Lot 6). A hammerhead turn-around is provided at the end of Montclair Common to allow for vehicle turn around maneuvers. The driveway has up to a maximum slope of 10 percent, but the majority of the driveway slopes vary between 3 and 6 percent.

**Grading/Topography:** The project site is Lot 5 of Tract 6854, a 1.9 acre unimproved residential lot. The existing topography of the site is moderately steep, to steep, with existing surface slopes of approximately 14 percent to over 30 percent. Site elevations vary from approximately 440 feet at the southeast corner, to approximately 365 feet at Montclair Terrace. The applicant's civil engineer has used an assumed elevation datum of 121.62 feet at an existing sanitary sewer manhole in Montclair Terrace, therefore the elevations shown on the Preliminary Grading Plan do not reflect true "above Mean Sea Level" elevations.

The applicant's civil engineer estimates the grading quantities to be 1,260 cubic yards of cut and 180 cubic yards of fill, for a total grading quantity of 1,440 cubic yards. Accounting for 20 cubic yards of soil shrinkage, the applicant's engineer estimates 1,060 cubic yards of export spoils. The disposal site for all offhaul material shall be subject to City Engineer approval prior to issuance of the grading permit.

The project plans include approximately 540 linear feet of exterior retaining walls. Exterior retaining walls do not include the retaining walls proposed as part of the residence or either the attached or detached garages. The majority of walls are proposed along the driveway and front of the house. The other walls are on the sides and rear of the house and are being used to provide flat patios and lawn areas. All proposed retaining walls are limited to a maximum height of three feet, as required by the planned district (P-96-12i). The applicant's civil engineer has identified constrained land on the lot (areas on the lot where the slope exceeds thirty percent). No improvements are proposed to encroach into slopes that exceed thirty percent.

The concrete path and stairs outside of the house, between the library and the attached 2-car garage, are approximately 6 feet above existing grade. The previous grading plan, reviewed by Planning Commission on June 12, 2003, showed this grade difference as fill. In the current plan, the project civil engineer has indicated this area as a "bridge", but no details have been provided. A condition of approval has been included requiring further detail in this area in the construction drawings (Condition B-10). The improvements will be subject to staff review and approval during Development Organization review.

**Drainage:** The development of Tract 6854 included the installation of concrete v-ditches along the east side of Montclair Terrace and installation of a v-ditch between Lot 5 and the adjacent lot to the north (Lot 4). There is an existing 10-foot private storm drain easement that extends approximately 65 feet in to the applicant's property. The proposed storm drain system conveys part of the runoff through a "loose rock lined swale" before entering the v-ditch in the private easement. The remainder of the storm water runoff is collected and piped to a perforated pipe "T-dissipater" southwest of the residence. This runoff will flow overland approximately 150 feet before entering the v-ditch along Montclair Terrace. The on-site storm drainage system shall be subject to staff approval during Development Organization review.

**Urban Runoff Clean Water Program:** The Federal Clean Water Act of 1972 and Water Quality Act (1987) require localities throughout the nation to obtain a National Pollutant Discharge Elimination System permit (NPDES) in order to discharge storm water into public waterways such as creeks, rivers, channels and bays. The applicant will comply with the City's Urban Runoff Clean Water Program in accordance with the NPDES requirements issued by the State's Water Quality Control Board.

#### **Applicable Fees:**

- **Development Impact Fees:** This project will be subject to Citywide Development Impact Fees (condition A-4). These fees may include fees for fire protection, capital facilities, traffic impact, and park facilities. These fees shall be calculated at the fee rates in effect at the time of building permit issuance.

**Environmental Analysis:** This project is categorically exempt from California Environmental Quality Act review per Section 15303, New Construction or Conversion of Small Structures.

**Response from Agencies and Organizations:** Staff has received comments from an adjacent homeowner concerned about potential view impacts. The neighbor was particularly concerned with the proposed California Live Oak tree selection and location, and staff generally concurs that this is an inappropriate tree for much of the site (as discussed earlier). Conditions of approval have been incorporated to choose an alternate tree variety (condition C-3).

**Enclosures:** Exhibit "A" Site, Architecture, Landscape, and Grading Plans  
Exhibit "B" Planned District Minor Amendment Conditions of Approval  
Exhibit "C" Preliminary Grading Plan Conditions of Approval  
June 12, 2003 Planning Commission Minutes (Informational)

**Exhibits:** Exhibit "A" Site, Architecture, Landscape, and Grading Plans  
Exhibit "B" Planned District Minor Amendment Conditions of Approval  
Exhibit "C" Preliminary Grading Plan Conditions of Approval  
Exhibit "D" Color and Material Sample Board

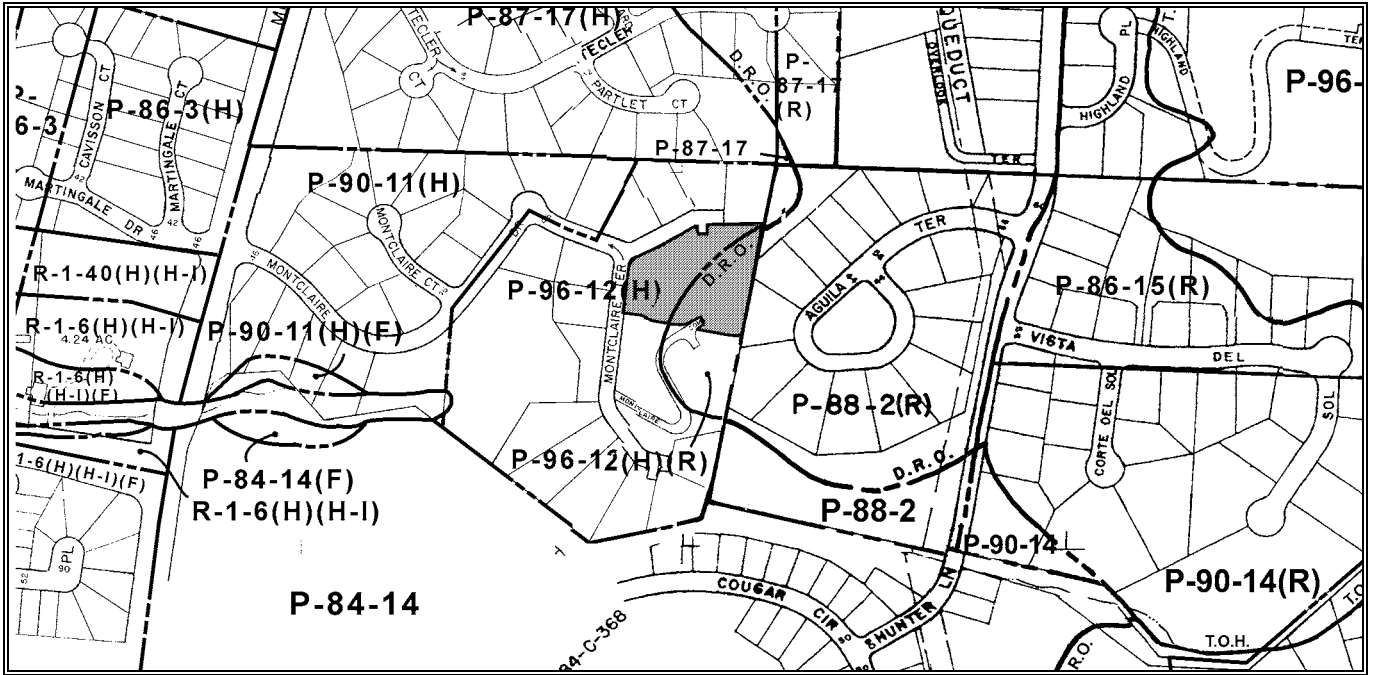
**Recommended Actions:**

1. Hold public hearing.
2. Provide applicant and staff with further direction.

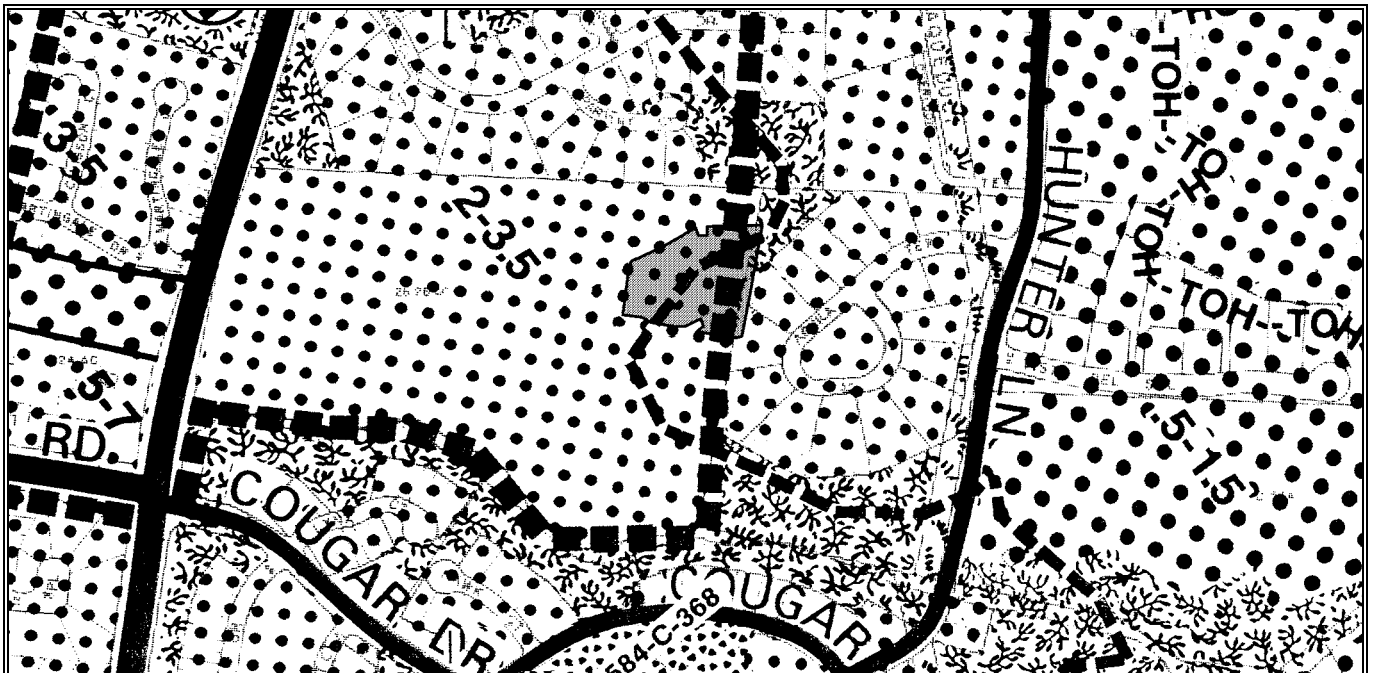
OR,

1. Hold public hearing.
2. Find PLN2003-00137 to be categorically exempt from CEQA review per Section 15303, New Construction or Conversion of Small Structures.
3. Find PLN2003-00137 is in conformance with the relevant provisions contained in the City's existing General Plan. These provisions include the designations, goals and policies set forth in the General Plan's Land Use Chapter as enumerated within the staff report.
4. Approve PLN2003-00137, as shown on Exhibit "A", subject to findings and conditions on Exhibit "B".

**Existing Zoning**  
Shaded Area represents the Project Site



**Existing General Plan**



**Exhibit "B"**  
**Findings and Conditions of Approval for PLN2003-00137**  
**Patel Residence – Planned District Minor Amendment**  
**45651 Montclair Terrace (Lot 5)**

The conditions below are made on the basis of information contained in the staff report and information from the public hearing to the Planning Commission dated September 11, 2003, incorporated herein by reference:

**CONDITIONS OF APPROVAL:**

**General Conditions:**

- A-1 The project shall conform with Exhibit "A" (Site, Architecture, Landscape, and Grading Plans), Exhibit "C" (Preliminary Grading Plan Conditions of Approval), Exhibit "D" (Color and Material Sample Board), all conditions of approval set forth herein, and all conditions of approval of Planned District P-96-121.
- A-2 Plans shall be submitted to the Development Organization for review to insure conformance with relevant codes, policies, and other requirements of the Fremont Municipal Code.
- A-3 Minor revisions to plans may be permitted within the overall context of the approved design concept, subject to the approval of the Assistant City Manager during the Development Organization review process.
- A-4 The project shall be subject to Citywide Development Impact Fees. These fees may include fees for fire protection, park facilities, capital facilities and traffic impact. These fees shall be calculated at the rate in effect at the time of building permit issuance.
- A-5 The project plans shall identify Best Management Practices (BMPs) appropriate to the uses conducted on-site to effectively prohibit the entry of pollutants into storm water runoff. The plans will also include storm water quality measures for operation and maintenance of the project.

***During Construction:***

- A-6 The property owner shall be responsible for litter control and sweeping of all paved surfaces. All on-site storm drains shall be cleaned immediately before the start of the rainy season beginning on October 15 each year, subject to the review of the Building/Engineering inspector.
- A-7 Any vehicle or equipment washing/steam cleaning must be done at an appropriately equipped facility that drains to the sanitary sewer. Outdoor washing must be managed in such a way that there is no discharge of soaps, solvents, cleaning agents or other pollutants to the storm drains. Wash water should discharge to the sanitary sewer, subject to review and approval of Union Sanitary District.
- A-8 Construction activities shall be limited to the following hours of operation:
  - 7 a.m. to 7 p.m. Monday through Friday
  - 9 a.m. to 6 p.m. Saturday
  - No construction activities allowed on SundayFailure to comply with the above mentioned hours of operation will result in the withholding of inspections.

**Architecture, Site Plan, and Engineering Conditions**

- B-1 The roof over each eyebrow dormer shall be matte-finish metal, subject to review and approval during the Development Organization process.

- B-2 At the rear elevation, at the back of the attached garage, windows shall be redesigned to arch underneath the proposed eyebrow dormers, similar to other window treatments beneath dormers.
- B-3 The proposed culture stone veneer shall be applied to the lower floor walls and the base of the residence.
- B-4 Garage doors shall be redesigned to be more compatible with the proposed architecture, and shall be painted a color to match the house or trim. Garage doors shall not be white.
- B-5 Prior to issuance of building or grading permits, the Project Architect and Project Civil Engineer shall redesign the exterior area between the library and the attached 2-car garage. Cut and fill outside the building envelope shall be limited to 3 or 4 feet, subject to review and approval during Development Organization process.
- B-6 All mechanical equipment, including air conditioning units and PG&E meters, shall be screened from view from adjacent public rights-of-ways and other uses, subject to review and approval during the Development Organization process.
- B-7 No antennas, including satellite dish antennas, shall be placed on the roof or in the front or side yard areas adjacent to the public rights-of-way. All antennas shall be screened from view from the public rights-of-way, subject to the review and approval of staff during the Development Organization review process.
- B-8 Garbage or trash containers shall be suitably concealed behind permanent screening or fencing or located within the garage, subject to review and approval of staff during the Development Organization review process.
- B-9 No exterior lighting shall be permitted except that which has a concealed source, subject to the review of staff during the Development Organization review process.
- B-10 The Project Architect and/or Project Civil Engineer shall provide additional details of the "bridge" areas shown on the Grading and Drainage Plan. Staff shall review the details for conformance with the Planned District during Development Organization. Cut and fill outside the building envelope shall be limited to 3 or 4 feet, subject to staff approval during Development Organization review.
- B-11 All landscaping shall be properly maintained and shall be designed with efficient irrigation practices to reduce runoff, promote surface filtration, and minimize the use of fertilizers and pesticides, which can contribute to runoff pollution.
- B-12 The project plans shall identify Best Management Practices (BMPs) appropriate to the uses conducted on-site to effectively prohibit the entry of pollutants into storm water runoff. The plans will also include storm water quality measures for operation and maintenance of the project.
- B-13 The developer shall comply with the City's Urban Runoff Clean Water Program in accordance with the NPDES requirements issued by the State's Water Quality Control Board.
- B-14 The project plan shall include erosion control measures to prevent soil, dirt, debris, or other pollutants from entering the storm drain system during and after construction, in accordance with the practices outlined in the Association of Bay Area Governments Erosion and Sediment Control Handbook, California Storm Water Best Management Practice Handbooks, and Regional Water Quality Control Board's Erosion and Sediment Control Field Manual. A separate plan shall be submitted for this purpose and shall be subject to review and approval of the City Engineer during the Development Organization process.
- B-15 The developer is responsible for ensuring that all contractors are aware of all storm water quality measures and that such measures are implemented. Failure to comply with the approved construction Best Management Practices will result in the issuance of correction notices, citations, or stop orders.



## **Landscaping**

- C-1 A landscape plan shall be submitted indicating full details regarding (1) paving materials and textures of walkways, (2) lighting of walkways and driveways with low intensity, non-glare type fixtures, (3) screening of driveways and parking areas, and (4) landscaping of site and parkway areas.

As part of the landscape plan, the applicant shall submit to the Development Organization:

- 1) An underground irrigation plan.
  - 2) Weed control specifications.
  - 3) A lighting plan for the illumination of the building, driveways and parking areas. Type of lighting fixtures, their heights, intensity and direction shall be clearly indicated.
  - 4) Construction details of raised planters, walkways, paths, benches, walls, fences, trellises, and other architectural features as appropriate.
  - 5) City of Fremont standard tree preservation notes.
- C-2 All existing trees onsite shall be preserved. City of Fremont standard tree preservation notes shall be shown on all submitted plans as appropriate.
- C-3 In order to maintain the views of adjacent neighbors, the north area of the site shall only contain smaller trees, which grow to a maximum height of no more than twenty five feet. All tree selections and location shall be subject to review and approval during the Development Organization process to insure conformance with the intent of this condition – to minimize potential view impacts.
- C-4 All landscaping shall be properly maintained and shall be designed with efficient irrigation practices to reduce runoff, promote surface filtration, and minimize the use of fertilizers and pesticides that can contribute to runoff pollution.
- C-5 This lot shall have only open fencing, subject to the review and approval of staff during the Development Organization review process, per condition A-29 of the Planned District (P-96-12I).
- C-6 All landscape, retaining, and other walls shall be finished on all visible sides to be compatible with the architecture of the house.
- C-7 Special paving treatments shall be provided on all patios and terraces and at identified locations of driveway as shown on approved plans. Paving shall be colored, textured, and/or scored concrete or similar material subject to review and approval during the Development Organization process.
- C-8 All required landscaping shall be installed prior to the issuance of occupancy permits for the residence, subject to the review and approval of staff through the Development Organization review process.

## **Fire Prevention**

The applicant does not currently meet the requirements of C.F.C. 902.2.2.1, and will need to apply for alternate methods. They may use exception 1 and/or 2 of section 902.2.2.1. They will be required to have a Fire Protection Engineer submit the form for approval. Fees are required with the submission. The following are requirements that will/may apply once alternate method is approved:

- D-1 The applicant shall install an automatic fire sprinkler system in the building for fire protection purposes. Waterflow and control valves must be monitored by a central alarm monitoring system and Central Station. The monitoring system shall have a smoke detector placed over the fire panel, a pull station, and an audible device located in a normally occupied location.

- D-2 Plan, specifications, equipment lists and calculations for the required sprinkler system must be submitted to the Fremont Fire Department Authority and Building Department for review and approval prior to installation. A separate plan review fee is required. Standard Required: N.F.P.A. 13
- D-3 All Automatic Fire Suppression Systems Fire Department Connections shall have an address placard installed at the connection.
- D-4 All Fire Department Connections shall have a Knox Cap installed on every inlet.
- D-5 Prior to installation, plans and specifications for the underground fire service line must be submitted to the Fremont Fire Authority and Building Department for review and approval. Please include cathodic protection or soils report stating why protection is not required. Standard Required: N.F.P.A. 24 and N.F.P.A 14
- D-6 The applicant shall provide the Fremont Fire Department with a site plan/Civil Utility Plan for approval of public and on-site fire hydrant locations.
- D-7 The applicant shall comply with Fremont code requirements for installation of fire retardant roof coverings.
- D-8 The applicant shall provide all weather surface (paving) for emergency vehicle access within 150 feet of all construction or combustible storage. This access shall be provided before any construction or combustible storage will be allowed. UFC 902.2.1.
- D-9 The applicant shall provide required fire flow (hydrants) on site prior to construction or storage of combustible materials. U.F.C 903.2 & Appendix IIIA. Fire hydrant jumper lines must be at least 6 inches in diameter. This must be completed and inspected before any construction or material storage will be allowed.
- D-10 The applicant shall have a key box (Knox brand) located outside of building/gate and provide keys to the Fire Department so they may gain access. Vehicle gates may use Knox lock or keyed over-ride switch. Application can be obtained at Fire Administration office, 39100 Liberty Street, Fremont.
- D-11 The applicant shall install Fire alarm system as required. The system must be monitored. The system must be N.F.P.A. 72 compliant and have an interior audible device per the U.F.C Upon completion a "UL" serial numbered certificate shall be provided at no cost to the City of Fremont Fire and Life Safety Inspector. Fire alarm systems devices shall be addressable and report to the Central Monitoring Station addressable.
- D-12 Fire apparatus roadways maximum 18% grade. Any roadway 15% or > grooved concrete, less than 15% asphalt.
- D-13 Address must always be visible from Public/Private Street. Flag lots must have monument sign and green bott dot.
- D-14 Any/all new street names and addressing shall be approved by the Fire Department.
- D-15 A driveway access serving one dwelling/structure shall have a minimum 20 foot unobstructed width driveway/access road. The access road must provide all portions of the first floor with the required 150 feet access to the rear of the building .A driveway/ access road serving two or more dwelling/structures shall have a minimum 20 foot unobstructed width. A driveway access serving three or more dwelling/structures shall have a minimum 20 foot unobstructed linear width. These driveways/access roads shall be designated as Fire Lanes. Driveway /access roads and shall meet Fire Department standards for distance, weight loads, turn radius, grades, and vertical clearance. Approved turnarounds shall be required for distances over 150 feet from public streets. The turnaround shall be locate not more than 150 feet from the end of the fire lane access. Other mitigation's shall/may be required in addition to those listed.

- D-16 Gates across Fire Department access roads shall have a minimum 15-foot clear, unobstructed linear width and a clear vertical height of 13 feet 6 inches. All locking devices shall provide for Fire Department emergency access with Knox box, lock or over –ride switch
- D-17 Fire hydrant spacing requirement is 500 feet. The distance is measured as the fire engine travels on all- weather surfaces.
- D-18 This project must meet all Hazardous Fire Area requirements. Construction, roof material, wetband, etc.

**Exhibit "C"**  
**Findings and Conditions of Approval for PLN2003-00137**  
**Patel Residence – Preliminary Grading Plan**  
**45651 Montclair Terrace (Lot 5)**

**FINDINGS:**

The findings below are made on the basis of information contained in the staff report and information from the public hearing to the Planning Commission dated September 11, 2003, incorporated herein by reference:

- (a) The proposed project described in the application will not have an appearance, due to the grading, excavation, or fill, substantially and negatively different from the existing natural appearance.
- (b) The proposed project described in the application will not result in geologic or topographic instability on or near the site. Based on geologic information available, the site is not in a special studies zone. There are no fault zones or evidence of slides on the site that might be aggravated by the grading of the development.
- (c) The proposed project described in the application will not endanger public sewers, storm drains, watercourses, streets, street improvements, or other property; will not interfere with existing drainage courses; and will not result in debris being deposited on any public way. The adequacy of the existing sewer, water and drainage facilities proposed for the project has been reviewed by the different utility agencies. The proposed development will not alter or obstruct the natural flow from abutting properties or divert drainage from its natural watershed. The applicant is required to submit a plan to control erosion and siltation during and after construction for review and approval by the City Engineer.
- (d) Conformity, where applicable, to special concerns relating to the adopted Seismic Safety Element and concerns shown on maps issued by the U.S. Geological Survey and the California Division of Mines and Geology shall be accomplished. Supplemental data and substantiation of conclusions may be required by the public works director upon city review of the reports. The proposed development is not in any special studies zone nor is there evidence of presence of any fault or active slides per maps issued by the U.S. Geological Survey and the California Division of Mines and Geology.
- (e) The proposed project described in the application will not unacceptably affect the health, safety, and or welfare of adjacent residents or landowners, nor the citizens of Fremont.

**PRELIMINARY GRADING PLAN CONDITIONS OF APPROVAL:**

- 1. The project shall conform to Exhibit "A" (Preliminary Grading Plan), all conditions of approval set forth herein, and all conditions of approval of Planned District PLN2003-00137 (Exhibit "B").
- 2. Approval of this preliminary grading plan does not extend to the final detailed design approval necessary to be accomplished in connection with the development plans.
- 3. Approval of this preliminary grading plan shall terminate 24 months from the date of approval by the Planning Commission.
- 4. The on site storm drainage system is not approved with the Preliminary Grading Plan (PLN2003-00137). The applicant shall provide for a functional drainage system subject to City approval during Development Organization review.

5. During Development Organization review the applicant shall obtain a final grading permit in conjunction with the building permit. A professional engineer registered in the State of California must prepare the final grading plan.
6. The final grading plan shall include existing and proposed elevation contours based upon a City of Fremont benchmark. The assumed datum used for the Preliminary Grading Plan is not appropriate for final building permit or grading permit construction drawings.
7. The applicant shall submit a detailed soils report, prepared by a qualified soils engineer registered by the State of California.
8. Grading operations shall be in accordance with recommendations contained in the required soils report and shall be supervised by an engineer registered in the State of California to do such work.
9. Site grading shall not obstruct natural flow from abutting properties or divert drainage from its natural watershed.
10. A disposal site for the off-site haul dirt materials or source for the import fill shall be approved by the City prior to the approval of the grading permit. The off-site haul route for the excess dirt or import fill shall be subject to the approval of the City Engineer.
11. The applicant may be allowed grading deviation up to a maximum of one foot (plus or minus) between the preliminary grading plan and the final grading plan. Deviation over one foot may be referred to the Planning Commission subject to approval of the City Engineer.